

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

LINDA DOWNS,) CASE NO. 3:11-CV-00885-LRH-WGC
Plaintiff,) MINUTES OF THE COURT
vs.) DATED: APRIL 25, 2012
RIVER CITY GROUP, LLC et al.,)
Defendant(s).)

PRESENT: HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

Deputy Clerk: KATIE LYNN OGDEN Reporter: FTR: 1:38:40 p.m. - 2:26:36 p.m.

Counsel for Plaintiff(s): ADAM P. MCMILLEN

Counsel for Defendant(s): ARIEL E. STERN and CHRISTINA S. BHIRUD

PROCEEDINGS: MOTION HEARING

1:38 p.m. Court convenes.

Motion for Protective Order Staying Discovery and Request for Expedited Relief on Order Shortening Time (Dkt. No. 49)

In addressing the Motion for Protective Order Staying Discovery (Dkt. No. 49), the Court initiates discussion with counsel for the parties regarding two somewhat differing standards the Court could utilize in determining whether or not discovery should be stayed pending disposition of an underlying and potentially dispositive motion to dismiss. The Court addressed the cases (with citations) governing the determination of this issue. The Court also noted Federal Rule 12(b)(6) and its purpose, which enables defendants to challenge the legal sufficiency of complaints without necessarily subjecting themselves to discovery.

One standard holds that the Court must be “convinced” that the plaintiff will be unable to state a claim for relief and that the underlying motion will be granted by the District Judge considering the case. The other standard directs the Court to look at the reasonable likelihood that plaintiff can construct a claim prior to forcing parties to undergo discovery. Both parties address the court with their respective positions concerning these competing standards.

The Court determines that it is not “convinced” the underlying motion to dismiss will be granted in its entirety; the court also believes that there is a reasonable likelihood the plaintiff will be able to state a viable claim for relief as to one or more of the causes of action plaintiff has asserted.

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Therefore, IT IS ORDERED that Defendants Emergency Motion for Protective Order Staying Discovery (Dkt. No. 49) is **DENIED**. However, Plaintiff shall tailor discovery requests to only seek information or documentation which the plaintiff needs to proceed with at this time in order to attempt to state valid causes of action.

IT IS FURTHER ORDERED that the parties are to meet and confer regarding reasonable grounds for discovery. If the parties cannot agree on the parameters of discovery they are to notify Judge Cobb's Judicial Assistant, Susan Davis at (775) 686-5858, indicating that there are continued disputes between the parties. At that time the Court will try to resolve such disputes prior to having parties file any further documents.

2:26 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: _____ /s/ _____

Deputy Clerk